

**Applicant:** Mallory Properties LLC

**Agent:** R2 Consulting Services

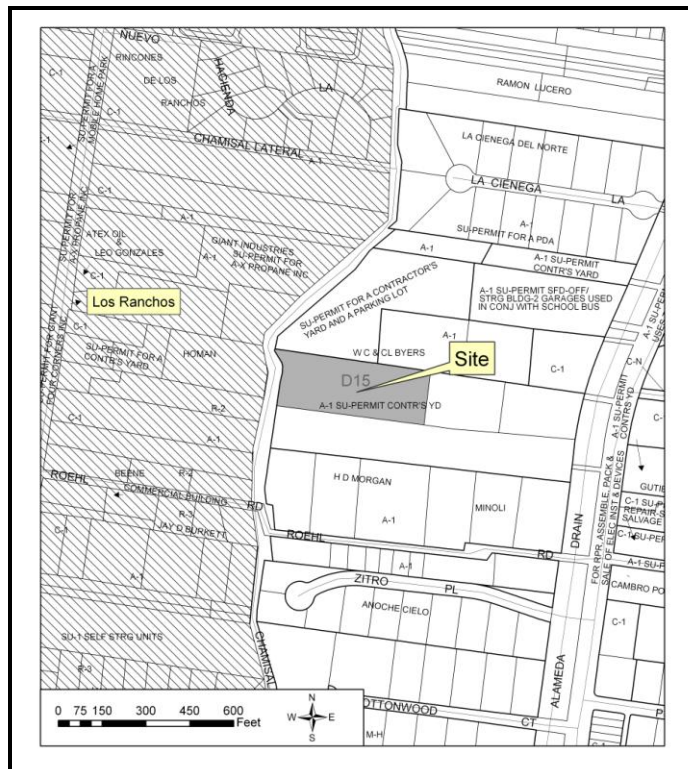
**Location:** 7535 Second St. NW

**Property Size:** 2.22 acres (approximately)

**Existing Zone:** A-1/Special Use Permit for a Contractor's Yard, Wholesale of Materials for Fencing & Office

**Proposed Zoning/SUP** Special Use Permit for a Contractor's Yard and Mobile Home for Watchman/Caretaker

**Recommendation:** Deferral



**Summary:** This is a request for a Special Use Permit for a Contractor's Yard and Mobile Home for Watchman/Caretaker on a 2.22 acre property located west of Second St. and north of Roehl Rd. The property is zoned A-1 and has had a Special Use Permit for a Contractor's Yard, Wholesale of Materials for Fencing & Office since the 1980s (CSU-84-31). Under the request, the applicant seeks permission to add open storage on the subject site.

**Staff Planner:** Catherine VerEecke, Program Planner

**Attachments:**

1. Application
2. Zoning and Land Use Maps
3. Existing Special Use Permit Documentation
4. Site Plan (Commissioners only)

Bernalillo County Departments and other agencies reviewed this application from 1/25/10 to 2/8/10. Their comments were used in preparation of this report, and begin on Page 10.

**AGENDA ITEM NO.: 6**  
**County Planning Commission**  
**March 3, 2010**

CSU-20100009      R2 Consulting Services, agent for Mallory Properties LLC, requests approval of a Special Use Permit for a Contractor's Yard & Mobile Home for a Watchman/Caretaker on Tract C, Lands of William C Byers & Charlotte Lorra, located at 7535 2<sup>nd</sup> Street NW, zoned A-1 with a Special Use Permit for a Contractor's Yard, Wholesale of Materials for Fencing & Office, and containing approximately 2.22 acres. (D-15)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land use</b>
	A-1/Special Use Permit for a Contractor's Yard, Wholesale of Materials for Fencing & Office	Vacant building, mobile home
<b>North</b>	A-1/Special Use Permit for Specific Use for Contractor's Yard and Parking Lot  A-1	Contractor's Yard, Parking Lot  Bus storage
<b>South</b>	A-1/Special Use Permit for Contractor's Yard	Nursery/Contractor's yard
<b>East</b>	A-1/Special Use Permit for a Contractor's Yard, Wholesale of Materials for Fencing & Office	Landscape contractor's yard
<b>West</b>	Lateral Village of Los Ranchos	Lateral Single Family Residential, commercial

**BACKGROUND:**

**The Request**

The applicant is requesting a Special Use Permit for a Contractor's Yard and a Mobile Home for a Watchman/Caretaker on a 2.22 acre parcel located about 400 feet west of 2<sup>nd</sup> St., about 600 feet north of Roehl Rd. NW. The property is zoned A-1 with a Special Use Permit for a Contractor's Yard, Wholesale of Materials for Fencing & Office. The property is located adjacent to the Chamisal Lateral (to the west) and is accessed along a 20 foot private access easement granted during a previous platting action. The property, which is owned by Heads Up Landscaping, includes a mobile home (watchman/caretaker) and an unoccupied garage/storage/office building (approximately 6000 square feet), part of which is two stories high. A small portion of the site is currently being used for storage of landscape materials and equipment. The intent of the property owner is to lease the subject property to another contractor.

The subject property has been governed by a Special Use Permit for a Contractor's Yard, which originally included two other tracts to the east (extending to Second Street) and one to the north (CZ-80-20, CSU-84-31). The approved site plan from 1984 shows the subject property as part of the contractor's yard with storage of nursery stock. In 2000, the previous property owner requested an administrative amendment specifically for the subject property (Tract C) to allow the construction of the storage building to remove the outdoor storage on the property. The Zoning Administrator approved the request, and since that time there have been two other requests to the Zoning Administrator for administrative amendments to increase the intensity of the use on Tract C in the form of an additional building and most recently open storage (ZA-90127). Both requests were denied because they were more intense than the approved uses on the site (See Attachment 3).

Under the current request, the applicant is seeking a new Special Use Permit specifically for Tract C to allow areas of open storage on the property as the current Special Use Permit does not allow outdoor storage. According to the agent, this will allow the use of more of the 2.2 acre site as a contractor's yard. At present, there is no business on the site, but the site plan anticipates an occupant that will utilize the office/storage building and will require areas for open storage.

The agent indicates that the site will comply with all landscaping and parking requirements of the Zoning Ordinance. Landscaping will be added along the north property line that abuts the existing access easement, up to the entrance gate of the property.

Request justification.

The applicant's agent argues that the existing (underlying) A-1 zoning is not appropriate for the property. The site is surrounded by non-residential uses, particularly contractor's yards, and the site has been used mainly as a contractor's yard for more than 20 years. The agent states that the new Special Use Permit will also allow the applicant to use more of the 2.2 acre property for open storage.

The agent also argues that changed neighborhood conditions have occurred in the area of the site away from residential uses more towards non-residential uses, such as contractor's yards,

school bus storage, and repair garages. The changed conditions also include the development of more intense uses along Second St., nearby the site. The agent states that the current use is consistent with the previous Special Use Permit on the property (CSU-84-31), which was granted for the life of the use.

### **Surrounding Land Uses and Zoning**

This property is located in an area along Second St. between Osuna Rd. and Paseo del Norte, which has a variety of land uses and residential densities, but the immediate area around the subject site has non-residential uses.

To the west of Second St. in the immediate vicinity of the property, most properties have A-1 zoning but have non-residential uses, particularly contractor's yards. The property to the north of the site has a Special Use Permit for a Contractor's Yard and Parking Lot (CSU-90003). Another property has bus storage on it under A-1 zoning, which is associated with a school bus company (on an adjacent property) that has a Special Use Permit for a Single Family Dwelling/Office, Storage Building, 2 garages used in conjunction with a school bus company (CSU 74-10). To the south of the subject site, a property has a Special Use Permit for a Contractor's Yard with a landscape contractor's yard and nursery (CSU-85-62).

However, further to the north and south of this area nearby the site, properties have residential zoning and uses.

A number of properties along the east side of Second St. (nearby the site) have C-1 or A-1 zoning, several of which have Special Use Permits, mainly for contractor's yards or other light industrial uses, such as auto salvage yard, cold storage plant, and manufacture of electronic devices (e.g., CSU-85-32, CSU-92-6, CSU-80012, CSU-80017, CSU-79-48).

To the west of the site beyond the Chamisal Lateral, properties have either commercial or residential zoning within the Village of Los Ranchos.

### **APPLICABLE PLANS AND POLICIES:**

#### **Albuquerque/Bernalillo County Comprehensive Plan**

The site is located in the Semi-Urban Area as delineated in the Albuquerque/Bernalillo County Comprehensive Plan. The principal goal for this area is to "maintain the character and identity of semi-urban areas which have environmental, social or cultural conditions limiting urban land uses."

#### **North Valley Area Plan**

This property is located within the Semi-Urban area of the North Valley Area Plan. The plan states that properties in this area may have special soil and water limitations or scenic, agricultural, or recreational assets, with the appropriate gross density at 1 to 3 dwelling units per acre.

Policy 4.4 of the Plan states that the County and City shall encourage rural standards for development, especially within the Semi-Urban and Rural Comprehensive Plan areas of the North Valley.

Policy 2.2 (Land Use) states ‘The City and County shall stabilize residential zoning and land use in the North Valley Area.’ This may be accomplished through the following:

- a. Limit the location, duration, and type of new uses allowed by Special Use Permit.
- b. Cancel discontinued Special Use Permits granted where existing conditions of approval are not met and permits that are otherwise in violation of the Zoning Ordinance.
- c. Retain existing County A-1 zoning as the only Rural Agricultural zone intended to provide for agricultural activities and spacious development.
- d. Require landscape buffering and other measures necessary to limit potential impacts of non-residential uses on residential areas.
- e. Retain the low density character of Rural Areas of the North Valley.

Policy 2.3.a (Land Use) states that “the City and County shall retain existing residential zoning on Alameda Blvd., Second Street, and on future roadway corridors.”

Policy 2.3 c (Land Use) states “Promote commercial development and redevelopment of existing commercially zoned properties.

Policy 7.1 states the City and County shall stabilize land use to protect affordable housing and land presently zoned for housing.

- a. Maintain and expand areas zoned for residential uses including A-1, R-1, M-H
- b. Limit encroachment of non-residential uses into residential areas
- c. Encourage residential zoning of parcels with residential uses.

The property is also located in an area the Plan refers to as the “Second Street to Fourth Street Sub-Area” of the Plan, which extends from Fourth Street in the west to the railroad in the east, and north from Montano Rd. to Paseo del Norte. The plan calls out the portion of Second St. between Osuna Rd. and Paseo del Norte as “a transitional area between the more rural area to the north and the more urban environment in the south. The provision of urban services into this portion of the plan area has supported requests for higher density residential and commercial zoning.”

The Plan states for the Preferred Scenario that the “land use pattern should reflect the present zoning” (Appendix, p.4).

### **Bernalillo County Zoning Ordinance**

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.

- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. There was an error in the original zone map.
  - 2. Changed neighborhood or community conditions justify a change in land use or
  - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
  - 1. denied due to lack of capital funds; or
  - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the

site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

## **ANALYSIS:**

### **Surrounding Land Use and Zoning**

The subject property has A-1 zoning and has had a Special Use Permit for a Contractor's Yard since the 1980s. The original Special Use Permit was amended in 2000 to allow the existing building on the site, but with no open storage of materials. The proposed use will likely be similar to the previous uses, although additional open storage areas have been designated on the site plan in the current application. This contractor's yard use also appears to be consistent with other uses adjacent to the property, which are mainly contractor's yards. There also are similar uses along Second St. that have been developed under C-1 zoning or Special Use Permits and include such uses as retail, contractor's yards, school bus storage, and auto repairing.

### **Plans**

This property is located in the Semi-Urban area of the Comprehensive Plan and the North Valley Area Plan, which both recommend that the area of the site should retain its semi-rural, residential character. However, the property is located in an area nearby Second St. which the plan recognizes as transitional between residential uses and commercial and light industrial uses. In addition, the North Valley Area Plan (Policy 2.3.c) does state that existing commercially-zoned properties may be developed or redeveloped with commercial uses.

### **Zoning Ordinance**

It appears this request is consistent with Resolution 116-86 of the Zoning Ordinance in that the particular use would not have a significant impact on the adjacent properties, all of which are non-residential, and would be consistent with other uses in the area. 'Changed neighborhood conditions' can be used as a justification for this request as there has been a trend towards Special Use Permits for more intense uses in the immediate vicinity of the site. Because the site and its immediate area have been developed with intense non-residential uses, the underlying A-1 zoning is not appropriate for the property.

### **Agency Comments**

County staff and representatives from other agencies have provided comments on this case.

County Public Works comments state that a preliminary grading and drainage plan is required for the site, which appears to be partially located in a floodplain. A traffic scoping study should also be provided for the potential uses on the site. Although this is an established use, there is no record of these studies ever having been approved by Bernalillo County for this particular site or use.

County Environmental Health comments state that activities on the site should comply with the Bernalillo County Noise Ordinance and the State Fugitive Dust Control Regulation.

The County Fire Marshall's Office indicates that access and a hazardous materials disposal plan should be approved for the site.

Review of the site plan indicates that corrections must be made before the request can be approved. Parking areas now shown on the site plan with gravel surfacing should be paved in accordance with Section 21.C.3 that states that all open parking areas in non-residential zones shall be surfaced with a durable surface consisting of concrete or bituminous material. Landscaping must be provided along the easement to the north of the subject property, and the area of site landscaping must be at least 15 percent of the site area.

The site plan must be revised to include the correct square footage of the existing structures in the westerly portion of the site, namely the second story of the office building and the covered storage building (these square footages are not shown on the current site plan). In addition, the applicant should clarify whether the main portion of the building will be used for 'storage' or for a 'shop' as both terms are used on the site plan. Based on this clarification, the required parking on the site would likely need to be recalculated. Labeling (e.g. setbacks, fencing, uses) should be more legible as they are difficult to read on the current site plan.

### **Conclusion**

The applicant wishes to re-establish and expand a contractor's yard on the subject site, which has recently become vacant (with the exception of some storage and a mobile home on the site). The property has been governed by a Special Use Permit for a Contractor's Yard on the site since 1984 (CSU-84-31), which was amended administratively to allow the existing structures but prohibited the open storage of materials. The uses proposed or anticipated in the current application appear to be consistent with previous uses on the site and with uses in the site's vicinity. They also appear to be generally consistent with North Valley Area Plan land use scenarios that recognize some existing non-residential uses in specific locations nearby Second St. between Osuna Rd. and Paseo del Norte.

However, staff is recommending deferral of this request. Additional information is needed for the proposed use and site plan, particularly an approved conceptual grading and drainage plan and traffic scoping study, a plan for paving of the site, additional landscaping that complies with Zoning Ordinance requirements, and clarification of the square footage of the buildings and associated parking spaces.



### Analysis Summary

<b>Zoning</b>	
Resolution 116-86	Changed neighborhood conditions have taken place and the use is consistent with other uses adjacent to the site and along Second St.
Requirements	Must comply with code requirements for landscaping, paving.
<b>Plans</b>	
Comprehensive Plan	Use does not appear to be consistent with Semi-Urban Area designation; does not maintain semi-rural features of the area.
<b>Other Requirements</b>	
Environmental Health	Comply with Noise Ordinance and Fugitive Dust requirements
Public Works	Provide acceptable conceptual grading and drainage plan, traffic scoping study.
Zoning	Provide correct information on building areas and parking.

### RECOMMENDATION

DEFERRAL of CSU-20100009.

Catherine VerEecke  
Program Planner

**BERNALILLO COUNTY DEPARTMENT COMMENTS**

**Building Department:**

APPROVED. 2/11/10 BUILDING WAS ISSUED A CERTIFICATE OF OCCUPANCY BASED ON THE 1997 UBC, THE OCCUPANCY FOR THE BUILDING WAS BUSINESS AND STORAGE 1 USE ONLY.

**Environmental Health:**

1. All activities conducted on this site must comply with the applicable provisions of the Bernalillo County Noise Ordinance, Sec. 30.111-127.

2. All activities conducted on this site must comply with local air quality regulations and ordinances as well as provisions of the Fugitive Dust Control Regulation, NMAC 20.11.20.

**Zoning Administrator:**

No comments received.

**Zoning Enforcement:**

Must comply with below listed comments.

zoning violations exist on property. Building without proper Special Use approval and permits. Setback violation.

Violations pending further action if proper approvals are not granted.  
No further adverse comments.

**Fire:**

Required access: Fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction.

The required width of a apparatus access road shall not be obstructed in any manner, including parking of vehicles during construction and/or occupancy.

Commerical vehicles shall be parked a minimum of 10 feet from the property line. A permit will be required for the storage of Hazmat, and despensing of fuel.

**Public Works:**

**DRAN:**

This property has an active storm water management system in place. The system does not appear to address storm water for the easternmost 0.7 acres of the property.

A grading & drainage plan prepared by a New Mexico registered engineer is required. The plan must document the active system and address the runoff from that portion of the property not covered by the active system. The plan must certify that the active system will meet the storm water control requirements set forth in Chapter 38 "Floods" of the Beranlillo County Code.

If storm water is discharged to the adjacent irrigation ditch to the west or to the Alameda Drain to the east, a letter from MRGCD indicating acceptance of this discharge will be required.

DRE:

Traffic Scoping Report is Required prior to approval.

Parks & Recreation:

Informational Comment: The Trails and Bikeways Facility plan designates the Chamisa Lateral as a proposed secondary trail corridor.

Sheriff's:

No comment received.

## **COMMENTS FROM OTHER AGENCIES**

MRCOG:

MRCOG staff have no comment on the application.

AMAFCA:

No comment.

City Planning Department:

No comments received.

City Public Works:

Transportation Planning: No comments received.

Transportation Development: No adverse comments.

Water Utility Authority:

No comments received.

City Transit:

No comments.

City Open Space:

Open Space has no adverse comments.

NMDOT

No comments received.

MRGCD

No comments received.

COUNTY PLANNING COMMISSION  
MARCH 3, 2010  
CSU-20100009

PNM

No comments received.

APS

No comments received.

**NEIGHBORHOOD ASSOCIATIONS:**

Alameda North Valley Association

North Osuna Valley Neighborhood Association